IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

WP(C).No. 23085 of 2006(W)

AGAINST THE ORDER IN EP. 286/2004 IN
OS.192/2001 of PRL.SUB COURT,IRINJALAKUDA

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PETITIONER:

SATHIAMMA, AGED 65,
W/O.VENUGOPALAN, MALIYEKKAL HOUSE,
NELLAI VILLAGE, THRISSUR DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

STATE BANK OF INDIA,
REP.BY ITS BRANCH MANAGER, THRISSUR BRANCH,
M G ROAD, THRISSUR-1.

BY ADV. SRI.GEORGE THOMAS(MEVADA), SC, SBI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX:

EXT.P1: COPY OF PLAINT IN OS 192/01 OF SUB COURT, IRINJALAKUDA DT.10/4/01

EXT.P2: COPY OF OBJECTIONS SUBMITTED BY PETITIONER TO DRAFT SALE PROCLAMATION DT.11/7/06

EXT.P3: COPY OF SALE PROCLAMATION DRAWN BY SUB COURT, IRINJALAKUDA IN EP 286/04 IN OS 192/01 DT.10/8/06

EXT.P4: COPY OF ORDER PASSED IN EP 286/04 IN OS 192/01 DT.11/7/06 OF PRL.SUB COURT, IRINJALAKUDA

//True copy//

PA TO JUDGE.

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.23085 OF 2006

Dated 15th December 2006

JUDGMENT

Petitioner is decree holder. Respondent is judgment debtor. This petition is filed under Article 227 of Constitution of India to set aside execution proceedings in O.S.192/01 contending that as the amount claimed in the execution petition exceeds Rs.10 Lakhs, civil court has no jurisdiction and execution petition will lie only before Debt Recovery Tribunal. Learned counsel appearing for respondent fairly conceded the legal position that as the amount due on the date of filing of the execution petition, exceeds Rs.10 Lakhs civil court has no jurisdiction to execute the decree and execution petition would be only filed before the Debt Recovery Tribunal. Proceedings taken in E.P.286/04 is therefore quashed. Learned Sub Judge, Irinjalakuda is directed to return execution petition to the decree holder for presenting it before Debt Recovery Tribunal.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.